Remarks

Claims 1-42 are pending in the application. Claims 1-7, 10 have been canceled in a previous response. Applicants request that claims 12, and 23-42 be canceled without prejudice to Applicants ability to file the claims in any divisional or continuation application. The Examiner has indicated allowability of the subject matter of claims 8, 9, 14-17, 21, and 22.

Claim Rejections Under 35 U.S.C. § 112

The Examiner rejects claim 12 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have canceled claim 12. Applicants respectfully request that the rejection be withdrawn.

Claim Rejections With Respect to the Bernstein Reference

The Examiner rejects claims 11, 12 and 18-20 under 35 U.S.C. § 102(b) as anticipated by the disclosure of U.S. Pat. No. 4,770,853 to Bernstein. The Examiner asserts the Bernstein reference discloses a two-chamber device with the use of antibodies and indicator chemistries.

With respect to pending claims 11 and 18-20, Applicants respectfully traverse. The group C phase associated lysine enzyme disclosed by the Bernstein reference in the example starting at col. 5, line 56 is not a bacteriophage, antiviral agent, or bacterial helper cell as disclosed in claim 11. Because Bernstein fails to teach or disclose a bacteriophage, antiviral agent, or bacterial helper cell as disclosed in claim 11, Bernstein cannot anticipate claims 11, and 18-20. Claim 12 has been canceled. Thus, Applicants respectfully request that the rejection be withdrawn.

Claim Rejections With Respect to the Gombrich Reference

The Examiner rejects claims 11-13, 18, and 19 under 35 U.S.C. § 102(b) as anticipated by the disclosure of U.S. Pat. No. 5,573,951 (Gombrich et al.). The Examiner argues the Gombrich reference discloses a multi-chambered blood culture

assay device in which some of the chambers are separated by a seal which is breached by rotation, and teaches the use of nutrients.

The Gombrich reference fails to teach a bacteriophage, antiviral agent, or bacterial helper cell as disclosed in claim 11. Because Gombrich fails to teach or disclose a bacteriophage, antiviral agent, or bacterial helper cell as disclosed in claim 11, Gombrich cannot anticipate claims 11, and 18-20. Claim 12 has been canceled. Thus, Applicants respectfully request that the rejection be withdrawn.

Claim Rejections With Respect to the Aneas Reference

The Examiner rejects claims 11-13, 18-20, and 28-41 under 35 U.S.C. § 102(e) as anticipated by the disclosure of U.S. Pat. No. 6,189,688 B1 to Aneas. The Examiner asserts the Aneas reference discloses a device with three chambers, with one chamber containing a liquid, another chamber containing a powder, and a third empty chamber. The Examiner cites paperavine sulfate and bicarbonate of soda as selective agents.

The Aneas reference fails to teach a bacteriophage, antiviral agent, or bacterial helper cell as disclosed in claim 11. Because Aneas fails to teach or disclose a bacteriophage, antiviral agent, or bacterial helper cell as disclosed in claim 11, Aneas cannot anticipate claims 11, 13 and 18-20. Claims 12 and 28-42 have been canceled. Thus, Applicants respectfully request that the rejection be withdrawn.

In view of the arguments and amendments offered herein, Applicants respectfully submit that the Examiner's grounds for objection and rejection are overcome and respectfully solicit reconsideration and withdrawal of the rejections and allowance of the application.

Respectfully submitted,

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